

TITLE 2800 - MINERALS AND GEOLOGY

MEMORANDUM OF UNDERSTANDING
between the
BLACK HILLS NATIONAL FOREST, FOREST SERVICE
U.S. DEPARTMENT OF AGRICULTURE
and the
DEPARTMENT OF WATER AND NATURAL RESOURCES
STATE OF SOUTH DAKOTA

This MEMORANDUM OF UNDERSTANDING (hereafter "MOU") is entered into by and between the Black Hills National Forest, Forest Service, United States Department of Agriculture (hereafter the "Forest Service"), and the State of South Dakota, by and through the South Dakota Department of Water and Natural Resources (hereafter "State").

I. PURPOSE

The purpose of this MOU is to define the procedures to be used by the State to relieve an operator of his obligations under South Dakota Codified Law Chapter 45-6 when a common variety mineral operation located on National Forest System Lands is completed by an operator holding a state mining license, and the Forest Service requires that the operation (or a portion thereof) be left unreclaimed so that the Forest Service can access and otherwise use the site for purposed of managing and maintaining Forest System Lands.

II. AUTHORITIES

The authorities of the Forest Service to enter into and implement this MOU include, but are not limited to, the general authorities of the Secretary of Agriculture to administer the national forests (16 U.S.C. 478, 551), and regulations pertaining to mineral resources (35 C.F.R. 228).

The authorities of the State of South Dakota to enter into and implement this MOU include, but are not limited to, South Dakota Codified Laws, Chapter 34A-2, 34A-6, 34A-10 and 45-6.

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AGREEMENT

It is MUTUALLY AGREED AND UNDERSTOOD by and between the Forest Service and the State that:

A. Responsibility

1. The Forest Service is the Federal Agency responsible for management of National Forest System Lands and as such requires access to and use of the natural resources located on those lands for purposes of management and maintenance.
2. South Dakota Codified Law, Section 45-6-77 exempts from the requirement of a mining license, sand, gravel or crushed rock operations conducted by an individual for personal use. The Forest Service is considered an individual for purposes of this statute and is not required to obtain a mining license for mineral operations, as defined in SDCL Chapter 45-6, located on National Forest System Lands.

B. Procedures

The Forest Service may require an operator that has completed mining activities at a site on National Forest System Lands and that was conducted under a State mining license, to leave the site partially or wholly unreclaimed so that the site can be accessed and used for purposes of managing Forest System Lands. When this occurs the following procedures are agreed upon and shall be adhered to:

1. When notified by either an operator or the Division that an operator is requesting release of liability for a mineral operation conducted under a State mining license and located on National Forest System Lands, the Forest Service shall, within 20 days, notify the Division in writing if the Forest Service intends to use the site.

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2. If the Forest Service does not intend to further develop a completed mineral operation or a portion thereof on Forest System Lands that was conducted under a State mining license, the operator is required to reclaim the site in accordance with the requirements of SDCL Chapter 45-6, prior to release of liability.
3. If the Forest Service intends to further develop a completed mineral operation on Forest Service System Lands that was conducted under a State mining license, the Forest Service shall, with the written notification in (1) above, identify by the use of a map or aerial photograph what portion of the mineral operation he is requiring the operator to leave unreclaimed and indicate that the Forest Service, under the terms of this MOU, agrees to finally reclaim the site following use.
4. Receipt by the Division of the affirmative notification described in (3) above shall be sufficient justification for releasing an operator of his liability for mineral operations located on Forest System Lands that were conducted under a State mining license.

AMENDMENTS

Amendments to this MOU may be proposed at any time by either party, and amendments shall become effective after written approval by both parties.

TERMINATION

This agreement shall become effective when signed by authorized representatives of the Forest Service and State and shall continue in force unless formally terminated by either party after sixty (60) days written notice.

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VI. AUTHORIZED OFFICIALS

The following officials are collectively authorized to implement, amend, or terminate, this MOU. For the State of South Dakota, Secretary of the Department of Water and Natural Resources and Chairman of the Board of Minerals and Environment.

For the Forest Service, U.S. Department of Agriculture, the Forest Supervisor, Black Hills National Forest.

/s/John J. Smith
John J. Smith, Secretary, South Dakota
Department of Water and Natural Resources

12/12/88
Date

/s/Richard C. Sweetman
Richard C. Sweetman, Chairman
South Dakota Board of Minerals and Environment

12/15/88
Date

/s/Richard D. Estes (for)
Darrel L. Kenops, Forest Supervisor
Black Hills National Forest

12/21/88
Date